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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

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FILE: LIN 07 116 53469

Office: NEBRASKA SERVICE CENTER Date: **SEP 4 - 2009**

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

ohn F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2) as a member of the professions holding an advanced degree or an alien of exceptional ability. The director determined that the petitioner failed to demonstrate that the beneficiary qualified under section 203(b)(2) of the Act because he had not attained five progressive years of experience as of the priority date. The director also noted that the petitioner failed to establish that it has had the continuing financial ability to pay the proffered wage as of the priority date. Accordingly, the director denied the petition.

The appeal was filed on February 22, 2008. The statement of error specified on Part 3 of the Form I-290B, Notice of Appeal or Motion is reflected as:

[The beneficiary] received a Bachelor of Technology Degree from Moscow State University in April of 1997. Prior to commencing his current position with the Petitioner, the Beneficiary had more than five years of qualifying experience. A brief and additional evidence is expected to be submitted within 30 days.

On Part 2, B, of the Form I-290B, counsel requested an additional 30 days to submit a brief and/or additional evidence.

Pursuant to 8 C.F.R. § 103.3(a)(2)(vii) and (viii), an affected party shall submit the brief directly to the AAO. Therefore the brief was due on March 26, 2008.

As of this date, the AAO has received nothing further.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Counsel here has not specifically addressed the reasons stated for denial and has not provided any additional evidence or argument to overcome the basis for denial related to the beneficiary's prior degree, his five years of experience, or the petitioner's ability to pay the proffered wage. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.